

CRAIG SMITH

PLAINTIFF/PETITIONER/MOVANT'S NAME

109268

PRISON NUMBER

RICHARD J. DONOVAN CORRECTIONAL FACILITY

PLACE OF CONFINEMENT

5-21-118P.O. BOX 799005, SAN DIEGO, CA. 92179

ADDRESS

| | | |
|------------------|-------|-------------------------------------|
| 2004 | 1983 | <input checked="" type="checkbox"/> |
| FILING FEE PAID | | |
| Yes | No | <input checked="" type="checkbox"/> |
| HYP MOTION FILED | | |
| Yes | No | <input checked="" type="checkbox"/> |
| COPIES SENT TO | | |
| Court | Proba | <input checked="" type="checkbox"/> |

| |
|---|
| FILED |
| OCT 25 2007 |
| CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY <u>AVI</u> DEPUTY |

**United States District Court
Southern District Of California**

'07CV 2077 BTM RBB

CRAIG SMITH

Plaintiff/Petitioner/Movant

COUNTY OF SAN DIEGO, CITY OF SAN DIEGO

D.A. DAN LUK, JUDGE ALBERT HARTMANOFFICER NICHOLAS GONZALEZ Defendant/Respondent

Civil No. _____

(TO BE FILLED IN BY U.S. DISTRICT COURT CLERK)

**MOTION AND DECLARATION UNDER
PENALTY OF PERJURY IN SUPPORT
OF MOTION TO PROCEED IN FORMA
PAUPERIS**

I, CRAIG SMITH

declare that I am the Plaintiff/Petitioner/Movant in this case. In support of my request to proceed without prepayment of fees or security under 28 U.S.C. § 1915, I further declare I am unable to pay the fees of this proceeding or give security because of my poverty, and that I believe I am entitled to redress.

In further support of this application, I answer the following question under penalty of perjury:

1. Are you currently incarcerated? ☒ Yes ☐ No (If "No" go to question 2)

If "Yes," state the place of your incarceration RICHARD J. DONOVAN

Are you employed at the institution? ☒ Yes ☐ No

Do you receive any payment from the institution? ☒ Yes ☐ No

[Have the institution fill out the Certificate portion of this affidavit and attach a certified copy of the trust account statement from the institution of your incarceration showing at least the last six months transactions.]

2. Are you currently employed? ☒ Yes ☐ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. .08 PER HOUR EIGHT CENTS PER HOUR PAIDED MONTHLY

55% TAKEN OUT ON FINE "RESTITUTION", WHICH A MONTHS PAY IS ABOUT
\$ 6.00 "SIX DOLLARS"

RICHARD J. DONOVAN, 480 ALTA ROAD, SAN DIEGO, CA 92179

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer. _____

3. In the past twelve months have you received any money from any of the following sources?:

- | | |
|---|---|
| a. Business, profession or other self-employment | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| b. Rent payments, royalties interest or dividends | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Social Security, disability or other welfare | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Gifts or inheritances | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| f. Spousal or child support | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| g. Any other sources | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

If the answer to any of the above is "Yes" describe each source and state the amount received and what you expect you will continue to receive each month. _____

4. Do you have any checking account(s)? ☐ Yes ☒ No

a. Name(s) and address(es) of bank(s): _____

b. Present balance in account(s): _____

5. Do you have any savings/IRA/money market/CDS' separate from checking accounts? ☐ Yes ☒ No

a. Name(s) and address(es) of bank(s): _____

b. Present balance in account(s): _____

6. Do you own an automobile or other motor vehicle? ☐ Yes ☒ No

a. Make: _____ Year: _____ Model: _____

b. Is it financed? ☐ Yes ☐ No

c. If so, what is the amount owed? _____

7. Do you own any real estate, stocks, bonds, securities, other financial instruments, or other valuable property?

☐ Yes ☒ No

If "Yes" describe the property and state its value. _____

8. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support. _____

9. List any other debts (current obligations, indicating amounts owed and to whom they are payable): _____

55% RESTITUTION FINE

10. List any other assets or items of value (specify real estate, gifts, trusts inheritances, government bonds, stocks, savings certificates, notes, jewelry, artwork, or any other assets [include any items of value held in someone else's name]): _____

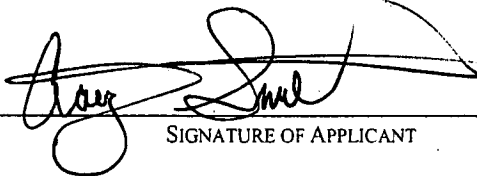
12. If you answered all of the items in #3 "No," and have not indicated any other assets or sources of income anywhere on this form, you must explain the sources of funds for your day-to-day expenses. _____

NO SOURCE IF I RECEIVED ANYTHING, ITS DUE TO AN FAMILY MEMBER, FRIEND, WHO EVER THAT MIGHT BE ABLE TO SPARE SOMETHING, FROM OUTSIDE OF PRISON

I declare under penalty of perjury that the above information is true and correct and understand that a false statement herein may result in the dismissal of my claims.

10-10-07

DATE



SIGNATURE OF APPLICANT

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE
(Incarcerated applicants only)

(To be completed by the institution of incarceration)

I certify that the applicant

Smith, Craig
(NAME OF INMATE)

CDC# T09268

(INMATE'S CDC NUMBER)

has the sum of \$.21 on account to his/her credit at

Richard S. Donovan Correctional Facility
(NAME OF INSTITUTION)

I further certify that the applicant has the following securities

N/A

to his/her credit according to the records of the aforementioned institution. I further certify that **during**

the past six months the applicant's *average monthly balance* was \$ 30.31

and the *average monthly deposits* to the applicant's account was \$ 30.31

ALL PRISONERS **MUST** ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT
STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD
IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).

10-15-2007

DATE

C. Rodriguez

SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

C. Rodriguez

OFFICER'S FULL NAME (PRINTED)

Account Clerk II

OFFICER'S TITLE/RANK

TRUST ACCOUNT WITHDRAWAL AUTHORIZATION
(Incarcerated applicants only)

(This form **MUST** be completed by the prisoner requesting to proceed in forma pauperis. An incomplete "Trust Account Withdrawal Authorization Form," or "Prison Certificate" will result in automatic denial of the prisoner's request to proceed in forma pauperis.)

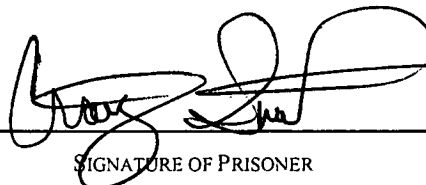
I, CRAIG SMITH, request and authorize the agency holding me in
(Name of Prisoner/ CDC No.)
 custody to prepare for the Clerk of the United States District Court for the Southern District of California, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust fund account (or institutional equivalent) pursuant to any future orders issued by the Court relating to this civil action pursuant to the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110 Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the Southern District of California, and I understand that, pursuant to 28 U.S.C. §§ 1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is either ☐ \$250 (civil complaint) or ☐ \$5 (habeas corpus petition) (check one). I also understand that this fee will be debited from my account regardless of the outcome of this action. This authorization shall apply to any other agency into whose custody I may be transferred.

10-10-07

DATE


 SIGNATURE OF PRISONER

REPORT ID: TS3030 .701

REPORT DATE: 10/15/07

PAGE NO: 1

CALIFORNIA DEPARTMENT OF CORRECTIONS
 R.J.DONOVAN CORR. FACILITY
 INMATE TRUST ACCOUNTING SYSTEM
 INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: FEB. 01, 2007 THRU OCT. 15, 2007

ACCOUNT NUMBER : T09268

BED/CELL NUMBER: B21 00000000118L

ACCOUNT NAME : SMITH, CRAIG

ACCOUNT TYPE: I

PRIVILEGE GROUP: A

TRUST ACCOUNT ACTIVITY

| TRAN | DATE | CODE | DESCRIPTION | COMMENT | CHECK NUM | DEPOSITS | WITHDRAWALS | BALANCE |
|------|------------|------|-------------------|------------|-----------|----------|-------------|---------|
| | 02/01/2007 | | BEGINNING BALANCE | | | | | 35.14 |
| | 02/01 | W515 | COPY CHARGE | 3163/JAN07 | | | 1.55 | 33.59 |
| | 02/01 | W536 | COPAY CHARGE | 3166/JAN07 | | | 5.00 | 28.59 |
| | 02/01 | W536 | COPAY CHARGE | 3166/JAN07 | | | 5.00 | 23.59 |
| | 02/01 | W502 | POSTAGE CHARG | 3193/JAN07 | | | 0.39 | 23.20 |
| | 02/01 | W502 | POSTAGE CHARG | 3193/JAN07 | | | 0.40 | 22.80 |
| | 02/06 | W502 | POSTAGE CHARG | 3275/FEB07 | | | 0.39 | 22.41 |
| | 02/21 | FC03 | DRAW-FAC 3 | 3460/F33RD | | | 22.00 | 0.41 |
| | 03/21 | FR01 | CANTEEN RETUR | 603917 | | | 22.00- | 22.41 |
| | 03/21 | FC02 | DRAW-FAC 2 | 3907F23RD | | | 20.00 | 2.41 |
| | 04/09 | W515 | COPY CHARGE | 4205/APR07 | | | 0.10 | 2.31 |
| | 04/11 | W515 | COPY CHARGE | 4237/APR07 | | | 0.30 | 2.01 |
| | 04/17 | DD30 | CASH DEPOSIT | 4329/POBOX | | 36.00 | | 38.01 |
| | 04/17 | FC05 | DRAW-FAC 5 | 4337/F53RD | | | 30.00 | 8.01 |
| | 04/24 | W516 | LEGAL COPY CH | 4435/APR07 | | | 4.80 | 3.21 |
| | 04/24 | W515 | COPY CHARGE | 4450/APR07 | | | 0.10 | 3.11 |
| | 04/24 | W515 | COPY CHARGE | 4450/APR07 | | | 0.50 | 2.61 |
| | 04/24 | W515 | COPY CHARGE | 4450/APR07 | | | 0.30 | 2.31 |
| | 04/24 | W515 | COPY CHARGE | 4450/APR07 | | | 0.30 | 2.01 |
| | 05/04 | VD54 | INMATE PAYROL | 4624/APR07 | | 3.07 | | 5.08 |
| | 05/09 | W515 | COPY CHARGE | 4705/MAY07 | | | 1.40 | 3.68 |
| | 05/09 | W515 | COPY CHARGE | 4705/MAY07 | | | 1.70 | 1.98 |
| | 05/24 | DD30 | CASH DEPOSIT | 4995/POBOX | | 27.00 | | 28.98 |
| | 05/30 | W512 | LEGAL POSTAGE | 5076/MAY07 | | | 4.60 | 24.38 |
| | 05/30 | W515 | COPY CHARGE | 5081/FEB07 | | | 1.95 | 22.43 |
| | 05/30 | W515 | COPY CHARGE | 5081/MAY07 | | | 0.30 | 22.13 |
| | 05/30 | W515 | COPY CHARGE | 5081/MAY07 | | | 1.00 | 21.13 |
| | 05/30 | W515 | COPY CHARGE | 5081/APR07 | | | 0.30 | 20.83 |
| | 05/30 | W515 | COPY CHARGE | 5081/MAY07 | | | 0.50 | 20.33 |
| | 05/30 | W515 | COPY CHARGE | 5081/APR07 | | | 2.20 | 18.13 |
| | 05/30 | W515 | COPY CHARGE | 5081/APR07 | | | 5.70 | 12.43 |
| | 05/31 | W516 | LEGAL COPY CH | 5122/MAY07 | | | 1.00 | 11.43 |
| | 06/05 | VD54 | INMATE PAYROL | 5191/MAY07 | | 1.35 | | 12.78 |
| | 06/05 | VD54 | INMATE PAYROL | 5195/MAY07 | | 3.07 | | 15.85 |
| | 06/07 | W516 | LEGAL COPY CH | 5256/MAY07 | | | 14.00 | 1.85 |
| | 06/07 | W515 | COPY CHARGE | 5265/JUN07 | | | 1.80 | 0.05 |
| | 06/13 | DD30 | CASH DEPOSIT | 5359/POBOX | | 27.00 | | 27.05 |
| | 06/14 | W515 | COPY CHARGE | 5392/JUN07 | | | 0.40 | 26.65 |
| | 06/14 | W515 | COPY CHARGE | 5392/JUN07 | | | 0.60 | 26.05 |
| | 06/14 | W515 | COPY CHARGE | 5392/JUN07 | | | 0.30 | 25.75 |
| | 06/14 | W515 | COPY CHARGE | 5392/JUN07 | | | 0.70 | 25.05 |
| | 06/14 | W515 | COPY CHARGE | 5392/JUN07 | | | 0.20 | 24.85 |

REPORT ID: TS3030 .701

REPORT DATE: 10/15/07

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R.J.DONOVAN CORR. FACILITY
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: FEB. 01, 2007 THRU OCT. 15, 2007

ACCT: T09268 ACCT NAME: SMITH, CRAIG ACCT TYPE: I

| DATE | CODE | DESCRIPTION | COMMENT | CHECK NUM | DEPOSITS | WITHDRAWALS | BALANCE |
|-------|-------|---------------|------------|-----------|----------|-------------|---------|
| 06/22 | W515 | COPY CHARGE | 5533/JUN07 | | | 1.00 | 23.45 |
| 06/22 | W515 | COPY CHARGE | 5533/JUN07 | | | 1.10 | 22.35 |
| 06/22 | W515 | COPY CHARGE | 5533/JUN07 | | | 0.40 | 21.95 |
| 06/27 | W515 | COPY CHARGE | 5585/JUN07 | | | 0.20 | 21.75 |
| 07/02 | W516 | LEGAL COPY CH | 0004/JUN07 | | | 1.10 | 20.65 |
| 07/06 | *VD54 | INMATE PAYROL | 0070/JUN07 | | 5.40 | | 26.05 |
| 07/10 | W515 | COPY CHARGE | 0107/JUL07 | | | 0.20 | 25.85 |
| 07/10 | W515 | COPY CHARGE | 0107/JUL07 | | | 0.40 | 25.45 |
| 07/10 | W515 | COPY CHARGE | 0107/JUL07 | | | 0.40 | 25.05 |
| 07/10 | W515 | COPY CHARGE | 0107/JUN07 | | | 0.50 | 24.55 |
| 07/10 | W515 | COPY CHARGE | 0107/JUN07 | | | 0.30 | 24.25 |
| 07/10 | W515 | COPY CHARGE | 0107/JUN07 | | | 0.60 | 23.65 |
| 07/10 | FC05 | DRAW-FAC 5 | 0115/F51ST | | | 23.00 | 0.65 |
| 07/16 | W515 | COPY CHARGE | 0222/JUL07 | | | 0.30 | 0.35 |
| 08/06 | *VD54 | INMATE PAYROL | 0602/JUL07 | | 5.40 | | 5.75 |
| 08/08 | W501 | SHIPPING CHAR | 0663/UPS | | | 3.58 | 2.17 |
| 08/09 | W515 | COPY CHARGE | 0702/JUL07 | | | 0.50 | 1.67 |
| 08/09 | W515 | COPY CHARGE | 0702/JUL07 | | | 0.80 | 0.87 |
| 08/15 | *DD30 | CASH DEPOSIT | 0800/POBOX | | 18.00 | | 18.87 |
| 08/21 | FC05 | DRAW-FAC 5 | 0913/F53RD | | | 18.00 | 0.87 |
| 09/06 | *VD54 | INMATE PAYROL | 1226/AUG07 | | 5.40 | | 6.27 |
| 09/11 | W515 | COPY CHARGE | 1314/AUG07 | | | 0.30 | 5.97 |
| 09/11 | W515 | COPY CHARGE | 1314/AUG07 | | | 1.20 | 4.77 |
| 09/11 | W515 | COPY CHARGE | 1314/AUG07 | | | 1.00 | 3.77 |
| 09/11 | W515 | COPY CHARGE | 1314/AUG07 | | | 0.10 | 3.67 |
| 09/12 | *DD30 | CASH DEPOSIT | 1328/POBOX | | 45.00 | | 48.67 |
| 09/13 | W536 | COPAY CHARGE | 1354/SEP07 | | | 5.00 | 43.67 |
| 09/18 | *FC05 | DRAW-FAC 5 | 1469/F53RD | | | 36.00 | 7.67 |
| 09/19 | *W515 | COPY CHARGE | 1501/SEP07 | | | 1.50 | 6.17 |
| 09/19 | W515 | COPY CHARGE | 1501/SEP07 | | | 1.40 | 4.77 |
| 09/20 | W515 | COPY CHARGE | 1514/SEP07 | | | 0.50 | 4.27 |
| 09/20 | W515 | COPY CHARGE | 1514/SEP07 | | | 0.50 | 3.77 |
| 09/20 | W515 | COPY CHARGE | 1527/COPY | | | 0.40 | 3.37 |
| 09/21 | W515 | COPY CHARGE | 1572/JUL07 | | | 0.40 | 2.97 |
| 09/21 | W515 | COPY CHARGE | 1572/AUG07 | | | 0.50 | 2.47 |
| 09/21 | W515 | COPY CHARGE | 1572/AUG07 | | | 0.70 | 1.77 |
| 09/21 | W515 | COPY CHARGE | 1572/JUL07 | | | 0.30 | 1.47 |
| 09/21 | W515 | COPY CHARGE | 1572/JUL07 | | | 0.90 | 0.57 |
| 10/02 | W515 | COPY CHARGE | 1715/SEP07 | | | 0.30 | 0.27 |
| 10/02 | W515 | COPY CHARGE | 1715/SEP07 | | | 0.20 | 0.07 |
| 10/04 | *VD54 | INMATE PAYROL | 1778/SEP07 | | 5.22 | | 5.29 |
| 10/09 | W515 | COPY CHARGE | 1838/JUL07 | | | 1.20 | 4.09 |
| 10/09 | W515 | COPY CHARGE | 1838/SEP07 | | | 0.20 | 3.89 |
| 10/09 | W515 | COPY CHARGE | 1838/SEP07 | | | 0.60 | 3.29 |
| 10/12 | W502 | POSTAGE CHARG | 1918/SEP07 | | | 1.08 | 2.21 |
| 10/15 | W515 | COPY CHARGE | 1944/OCT07 | | | 0.50 | 1.71 |
| 10/15 | W515 | COPY CHARGE | 1944/OCT07 | | | 0.50 | 1.21 |
| 10/15 | W515 | COPY CHARGE | 1944/OCT07 | | | 0.50 | 0.71 |
| 10/15 | W515 | COPY CHARGE | 1944/OCT07 | | | 0.50 | 0.21 |

REPORT ID: TS3030 .701

REPORT DATE: 10/15/07

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R.J.DONOVAN CORR. FACILITY
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: FEB. 01, 2007 THRU OCT. 15, 2007

ACCT: T09268

ACCT NAME: SMITH, CRAIG

ACCT TYPE: I

* RESTITUTION ACCOUNT ACTIVITY

DATE SENTENCED: 10/30/06

CASE NUMBER: SCD195342

COUNTY CODE: SD

FINE AMOUNT: \$ 800.00

| DATE | TRANS. | DESCRIPTION | TRANS. AMT. | BALANCE |
|------------|--------|-------------------------------|-------------|---------|
| 02/01/2007 | | BEGINNING BALANCE | | 800.00 |
| 04/17/07 | DR30 | REST DED-CASH DEPOSIT | 40.00- | 760.00 |
| 05/04/07 | VR54 | RESTITUTION DEDUCTION-SUPPORT | 3.41- | 756.59 |
| 05/24/07 | DR30 | REST DED-CASH DEPOSIT | 30.00- | 726.59 |
| 06/05/07 | VR54 | RESTITUTION DEDUCTION-SUPPORT | 1.50- | 725.09 |
| 06/05/07 | VR54 | RESTITUTION DEDUCTION-SUPPORT | 3.41- | 721.68 |
| 06/13/07 | DR30 | REST DED-CASH DEPOSIT | 30.00- | 691.68 |
| 07/06/07 | VR54 | RESTITUTION DEDUCTION-SUPPORT | 6.00- | 685.68 |
| 08/06/07 | VR54 | RESTITUTION DEDUCTION-SUPPORT | 6.00- | 679.68 |
| 08/15/07 | DR30 | REST DED-CASH DEPOSIT | 20.00- | 659.68 |
| 09/06/07 | VR54 | RESTITUTION DEDUCTION-SUPPORT | 6.00- | 653.68 |
| 09/12/07 | DR30 | REST DED-CASH DEPOSIT | 50.00- | 603.68 |
| 10/04/07 | VR54 | RESTITUTION DEDUCTION-SUPPORT | 5.80- | 597.88 |

* THIS STATEMENT DOES NOT REFLECT THE ADMINISTRATIVE FEE CHARGE THAT *

* IS EQUAL TO TEN PERCENT OF THE RESTITUTION AMOUNT COLLECTED. *

TRUST ACCOUNT SUMMARY

| BEGINNING BALANCE | TOTAL DEPOSITS | TOTAL WITHDRAWALS | CURRENT BALANCE | HOLDS BALANCE | TRANSACTIONS TO BE POSTED |
|----------------------|-------------------|----------------------|--------------------|------------------|------------------------------|
| 35.14 | 181.91 | 216.84 | 0.21 | 0.00 | 0.00 |

CURRENT
AVAILABLE
BALANCE

0.21



THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.
ATTEST: 10-15-2007
CALIFORNIA DEPARTMENT OF CORRECTIONS
BY C. Rodriguez
TRUST OFFICE

Pg 1 of 30